

PASS-THROUGH ENTITIES EXCEPT GENERAL PARTNERSHIPS ARE SUBJECT TO CORPORATION INCOME TAX, INCLUDING ESTIMATED PAYMENT PROVISIONS

House Bill 272 greatly revised how pass-through entities are taxed in Kentucky. Multi-member limited liability companies, single member limited liability companies, limited partnerships, limited liability partnerships and S corporations that are doing business in this state are subject to Kentucky's corporation income tax for tax periods beginning on or after January 1, 2005. House Bill 272 amended the definition of "corporations" in KRS 141.010(24) to include pass-through entities except for general partnerships.

"Doing business" in this state as defined in KRS 141.010(25) includes, but is not limited to:

- Being organized under the laws of this state;
- Having a commercial domicile in this state;
- Owning or leasing property in this state;
- Having one (1) or more individuals performing services in this state;
- Maintaining an interest in a general partnership doing business in this state;
- Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state; or
- Directing activities at Kentucky customers for the purpose of selling them goods or services.

An administrative regulation will be forthcoming to provide additional guidance on what the term "doing business" in this state means. Please note that the definition of "doing business" does not go beyond the limitations imposed and protections provided by the United States Constitution or Public Law 86-272.

Existing pass-through entities that currently have a Kentucky sales, withholding or coal tax account number and are subject to the corporation income tax under the provisions of House Bill 272 will be assigned a corporation income tax account number by the Department of Revenue. You will be notified by letter when the account number is assigned. Existing pass-through entities subject to the corporation income tax under the provisions of House Bill 272 but not registered for sales, withholding or coal tax must file Form 10A100 Kentucky Tax Registration Application. Newly formed pass-through entities must complete Form 10A100 located under the [Register A Business](#) section of our website.

The following entities are exempt from corporation income tax:

- Financial institutions, as defined in KRS 136.500, except bankers banks organized under KRS 287.135;
- Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;
- Banks for cooperatives;
- Production credit associations;
- Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;
- Corporations or other entities exempt under Section 501 of the Internal Revenue Code;
- Religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit; and
- Corporations whose only owned or leased property located in this state is located at the premises of a printer with which it has contracted for printing.



Any pass-through entity or C corporation subject to the corporation income tax will pay the greater of a tax calculated on taxable net income or an alternative minimum calculation. A pass-through entity or C corporation that does business within and without Kentucky will apportion its net income to Kentucky based on a three-factor apportionment formula of receipts, property and payroll.

The rates for the tax calculation based on net income are:

- 4% of the first \$50,000 of taxable net income;
- 5% of taxable net income over \$50,000 up to \$100,000;
- 7% of taxable net income over \$100,000 for taxable years beginning on or after January 1, 2005, and prior to January 1, 2007; and
- For taxable years beginning on or after January 1, 2007, 6% of taxable net income over \$100,000.

The alternative minimum calculation shall be the lesser of nine and one-half cents per \$100 of gross receipts (.00095) or seventy five cents per \$100 (.0075) of Kentucky gross profits.

For purposes of the alternative minimum calculation, "gross receipts" means Kentucky gross receipts. "Kentucky gross profits" means Kentucky gross receipts reduced by returns and allowances attributable to Kentucky gross receipts, less the cost of goods sold attributable to Kentucky gross receipts. Further guidance on what constitutes Kentucky gross receipts and Kentucky gross profits will be forthcoming in an administrative regulation.

All taxpayers subject to the corporation income tax under the provisions of House Bill 272 shall be required to pay a minimum of \$175 for each taxable year.

Multi-member limited liability companies, single member limited liability companies, limited partnerships, limited liability partnerships or S corporations that are now subject to the corporation income tax must pay installments of estimated tax if the entities' income tax liability for a taxable year can reasonably be expected to exceed \$5,000. The estimated payment requirement applies to tax periods that begin on or after January 1, 2005. Estimated payments must be made in three installment payments. For a calendar year December 31, 2005 filer whose estimated tax for the taxable year is expected to exceed \$5,000 on or before June 1, 2005, the following payment dates are applicable:

First Installment June 15, 2005 50% of Estimated Tax Due
 Second Installment September 15, 2005 25% of Estimated Tax Due
 Third Installment December 15, 2005 25% of Estimated Tax Due

If a multi-member limited liability company, single member limited liability company, limited partnership, limited liability partnership or S corporation whose estimated tax for the taxable year is expected to exceed \$5,000 after June 1, 2005, or if changes in estimated tax affect the amount of the installments, the following payment dates are applicable:

| When Estimated Tax Exceeds \$5,000 | Estimated Tax Due | |
|------------------------------------|-------------------|--------|
| | Sept 15 | Dec 15 |
| June 1–September 1 | 75% | 25% |
| September 2–December 1 | NA | 100% |



Fiscal Year Taxpayers—For corporations filing on a fiscal year basis, the following should be substituted for the dates in the two charts above:

| Calendar Year Date | Fiscal Year Date |
|---------------------------|---|
| June 15 | 15th day of sixth month |
| September 15 | 15th day of ninth month |
| December 15 | 15 day of the 12th month |
| June 1-September 1 | After the first day of the sixth month and before the second day of the ninth month |
| September 2-December 1 | After the first day of the ninth month and before the second day of the 12th month |

If you owe estimated tax under the guidelines provided in this notice, you may submit the estimated payment voucher form even if you have not been assigned a Kentucky corporation income tax account number. A 2005 corporation income tax estimated voucher, form 720-ES may be obtained from our website by going to the [Current Year Corporation Form Page](#).

A revised corporation income tax form 720 for 2005 is not available at this time. The Department of Revenue is working hard to develop a draft form that will assist you in estimating your tax liability under the revised corporation income tax. Please check our [website](#) for future updates on the forms development process.

Individual owners of multi-member limited liability companies, single member limited liability companies, limited partnerships, limited liability partnerships or S corporations that are now subject to the corporation income tax are not required to make individual income tax estimated payments based on the estimated tax due on the distributive share income of such pass-through entities beginning with the estimated payment due April 15, 2005.

If you have any questions regarding filling out a registration application, please call 502-564-3306. If you have any questions regarding estimated payments or how House Bill 272 applies to your business, please call 502-564-8139.

Department of Revenue

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